

## **REMARKS**

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

### **I. Amendments to the Claims**

Claims 16-20 have been amended to overcome the 35 U.S.C. § 101 and § 112 rejections discussed below.

The Applicants note that the amendment to claim 17 to recite the term “non-transitory” does not introduce new matter in view of the memo from David Kappos dated January 26, 2010, which states “[s]uch an amendment would typically not raise the issue of new matter, even when the specification is silent because the broadest reasonable interpretation relies on the ordinary and customary meaning that includes signals *per se*. The limited situations in which such an amendment could raise issued o new matter occur, for example, when the specification does not support a non-transitory embodiment because a signal *per se* is the only viable embodiment such that the amended claim is impermissibly broadened beyond the supporting disclosure.” Said memo is attached herewith.

### **II. 35 U.S.C. §101 Rejection**

Claim 17 was rejected under 35 U.S.C. § 101 for failure to recite statutory subject matter. Specifically, claim 17 was rejected for reciting a server that can be interpreted as software alone.

Claim 17 has been amended to clarify that the server includes a storage section storing content, which, as discussed during the telephone interview conducted on August 19, 2010,

requires more than software alone. As a result, since claim 17 now recites statutory subject matter, withdrawal of this rejection is respectfully requested.

### **III. 35 U.S.C. § 112, First Paragraph Rejection**

Claims 19 and 20 were rejected under 35 U.S.C. § 112, first paragraph for reciting subject matter that is allegedly not described in the specification. Specifically, claims 19 and 20 have been rejected for reciting “a computer-readable storage medium,” which is not described in the specification.

Claims 19 and 20 have been amended to recite “a non-transitory computer-readable recording medium having a program recorded thereon.” The claimed recording medium is described in paragraph [0018] of the publication of the specification, and, as discussed above, the term “non-transitory” **does not introduce new matter**. As a result, withdrawal of this rejection is respectfully requested.

### **IV. 35 U.S.C. § 112, Second Paragraph Rejections**

Claims 16-20 were rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These rejections are believed clearly inapplicable to amended claims 16-20 for the following reasons.

Specifically, in item 15 on page 4 of the Office Action, claims 16-20 were rejected for reciting “each of the sub-licenses manages together one or more keys,” which is allegedly indefinite. Initially, the Applicants note that the above-mentioned limitation means that “each of the sub-licenses manages a respective key” or keys, as mentioned in option b on page 4 of the

Office Action. This limitation is illustrated in Fig. 7 and is described in corresponding portions of the specification.

As a result, claims 16-20 have been amended to clarify the structure of the sub-licenses in a manner that is consistent with Fig. 7 and the corresponding description in the specification. Therefore, withdrawal of this portion of the 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

In item 16 on pages 4 and 5 of the Office Action, claims 16-20 were rejected for reciting “one or more keys having encrypted one of the plurality of resources,” which is allegedly indefinite. Initially, the Applicants note that the above-mentioned limitation means that “each sub-license manages keys, wherein said keys have previously been used to encrypt resources,” as mentioned in option d on page 5 of the Office Action. This limitation is illustrated in Fig. 7 and is described in the corresponding disclosure of the specification.

As a result, claims 16-20 have been amended to clarify the structure of the one or more keys having encrypted one of the resources, in a manner that is consistent with Fig. 7 and the corresponding description in the specification. Therefore, withdrawal of this portion of the 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

Furthermore, in item 17 on page 5 of the Office Action, claims 16-20 were rejected for reciting “key bunch of decryption keys for decoding the content or the corresponding sub-license when encrypted,” which is allegedly indefinite. Initially, the Applicants note that the above-mentioned “when encrypted” limitation is meant to apply to the “content” and the “sub-license portion of the claims, as mentioned in option g on page 5 of the Office Action. This limitation is described in paragraphs [0064] and [0065] of the publication of the present application.

As a result, claims 16-20 have been amended to clarify the above-noted limitations in a manner that is consistent with paragraphs [0064] and [0065]. Therefore, withdrawal of this portion of the 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

Additionally, in item 18 on pages 5 and 6 of the Office Action, claims 16-20 were rejected for reciting “an upper-level resource that is first referred to,” wherein it is allegedly not clear what is doing the referring or how the upper-level is referred to “first.”

Claims 16-20 have been amended to clarify that the startup document refers to the upper-level resource, such that the upper-level resource is the first resource of a plurality of resources that is first referred to by the startup document. Support for this amendment is described in paragraphs [0056]-[0058] of the published specification. Therefore, withdrawal of this portion of the 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

In items 19-21 on pages 6 and 7 of the Office Action, claims 16-20 were rejected for reciting “key bunch,” which is allegedly indefinite. The Applicants note that the above-mentioned limitation is described in paragraph [0064] of the publication of the present application, such that a “key bunch is a collection of a plurality of decryption keys to actually make contents or sub-licenses usable.”

As a result, it is respectfully submitted that the term “key bunch” is clearly defined in the specification. Furthermore, the Applicants note that a literal interpretation of the term “key bunch” would cause a person of ordinary skill in the art to understand that there is a “group” or a “bunch” of decryption keys, which is consistent with above-mentioned paragraph [0064]. Therefore, withdrawal of this portion of the 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

In items 22-27 on page 7 of the Office Action, claim 17 was rejected for not clarifying whether or not the claimed invention is drawn to a “server” or a “server and contents.” The Applicants note that claim 17 is indented to be drawn to the server and the structure of the content. Claim 17 has been amended to clarify the Applicants’ intentions. Claim 18 was also rejected for the same reasoning as claim 17. Claim 18 has been amended to clarify that the invention is drawn to a receiving terminal and the structure of the received content.

In items 22-27 claims 19 and 20 were also rejected under 35 U.S.C. §112, second paragraph for failing to clarify whether the “content” is a positive recitation of the claim. As discussed during the telephone interview conducted on August 19, 2010, it is respectfully submitted that claims 19 and 20 are directed to a recording medium including a program which causes a server/receiver to execute a specific method, such that claims 19 and 20 are essentially directed to method steps that are performed by a server/receiver having specific structural limitations and are performed using content having specific structural limitations.

As a result, claims 19 and 20 do not positively recite the structural elements of the server/receiver or the content, but rather recite a method of using the server/receiver and the content. In other words, even though claims 19 and 20 describe the structural features of the server/receiver and the content, claims 19 and 20 only positively recite the method performed by the server/receiver using the content. The Applicants note that, even though claims 19 and 20 do not positively recite the structure of the server/receiver and the content, it is still essential for claims 19 and 20 to describe the structural features of the server/receiver and the content in order for the claimed method steps to clearly describe the claimed invention (i.e., the method steps recited in claims 19 and 20 would not make sense without first defining the structure of the server/receiver and the content).

The Applicants would like to remind the Examiner of Microprocessor Enhancement Corp. v. Texas Instruments Inc. (U.S. Court of Appeals for the Federal Circuit, April 1, 2008), which held that a method claim is not invalid for indefiniteness even though it includes specific structural features in the preamble of the claim, because the claim does not impermissibly claim mixed classes of subject matter.

As a result, withdrawal of this portion of the 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

#### **V. Allowable Subject Matter**

Claims 16-20 were identified by the Examiner as being allowable if amended to overcome the 35 U.S.C. § 101 and § 112 rejections. The Applicants would like to thank the Examiner for this indication of allowable subject matter.

As mentioned above, claims 16-20 have been amended to overcome the 35 U.S.C. §101 and 112 rejections.

Accordingly, in view of the Examiner's indication of allowable subject matter and in view of the above-mentioned amendments, it is submitted that amended independent claims 16-20 are allowable.

## **VI. Conclusion**

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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